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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/554,553	05/15/2000	ANDREAS KYNAST	10191/1378	2755

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EXAMINER
TORRES, MARCOS L

ART UNIT	PAPER NUMBER
2683	7

DATE MAILED: 09/10/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	09/554,553	KYNAST ET AL.	
	Examiner	Art Unit	
	Marcos L Torres	2683	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *30 June 2003* .

2a)☒ This action is **FINAL**. 2b)☐ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *8-16* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *8-16* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

11)☐ The proposed drawing correction filed on _____ is: a)☐ approved b)☐ disapproved by the Examiner.

If approved, corrected drawings are required in reply to this Office action.

12)☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

13)☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☒ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____ .

3.☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

14)☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).

a) ☐ The translation of the foreign language provisional application has been received.

15)☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____ .
4) ☐ Interview Summary (PTO-413) Paper No(s). _____ .
5) ☐ Notice of Informal Patent Application (PTO-152)
6) ☐ Other: .

DETAILED ACTION

Response to Arguments

1. Applicant's arguments filed June 30, 203 have been fully considered but they are not persuasive.

Regarding applicants arguments that Mankovitz fails to disclose an interface located at an infrastructure that adapts data transmitted from the data provider to the data users. The applicant is reminded that although the claims are view in light of the specification, limitations from the specification are not read into the claim and the claims are given the broadest reasonable interpretation. In this case, Mankovitz discloses a broadcast transmitter (interface) at an infrastructure (see fig. 1; col. 7, lines 35-46) that adapts data transmitted to the users (col. 8, lines 25-30). As to the argument about that the FM standard is a transmission format not a data format (i.e. converts from FM transmission to the appropriate output device), to transmit and receive a signal there have to be a transmission standard, once that data is in the user device in order to be processed and used it must have a data format, otherwise the device would not work properly, in this case there is a transmission of different programs (col. 8, lines 25-30), since the user is listening to the program thru the device (see col. 1, lines 15) that means that the data was processed and used, therefore FM standard includes both transmission and data format.

Regarding applicants arguments that there is no proper evidence to support obviousness rejection, Merriam-Webster dictionary 10th edition define standard as "definitive rule, principle, or measure established by authority"; the

limitation of making information (data, music, news, etc) services available in an established format it is not only described by Mankovitz as described above; it is obvious to one of the ordinary skill in the art at the time of the invention that to use the information, the format had to be established previously with the capabilities of the receiver in mind. The limitation of using an interface for adapting data, it is also described by Mankovitz as described above, and it is also a common and well-known technique, therefore the current rejection stand.

Claim Rejections - 35 USC § 103

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

2. The factual inquiries set forth in *Graham* **v.** *John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

3. This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary.

Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

4. Claims 8-14 and 16 are rejected under 35 U.S.C. 103(a) as being unpatentable over Mankovitz.

As to claims 10-11 and 16, Mankovitz discloses a terminal device for a reception of data from an infrastructure, the terminal device having specific data processing capabilities for processing the data (see col. 7, lines 35-46), the infrastructure making a data service available in a format, the infrastructure including interfaces via which the data in the format is adapted to the data processing capabilities of the terminal device (see col. 11, lines 1-12; col. 9, lines 36-46), the terminal device comprising: means for transmitting a request signal to the infrastructure via which data is requested from the infrastructure and with which information concerning the data processing capabilities is transmitted via the terminal device to the infrastructure (see col. 8, lines 25-31). Although Mankovitz do not specifically discloses that the format is standardized, in order for the receiver unit to work properly must follow the FM standard. Therefore, it would have been obvious to one of the ordinary skill in the art at the time of the invention to use the standard format for a properly working system.

As to claim 13, Mankovitz discloses the terminal device, wherein the terminal device is a car radio with supplementary functions (see col. 45, lines 3-10).

As to claim 14, Mankovitz discloses the terminal device, wherein the information concerning the data processing capabilities of the terminal device includes a terminal device identifier (see col. 3, lines 4-30).

As to claim 12, Mankovitz discloses the terminal device, further comprising means for exchanging data with the infrastructure via a telephone network (see col. 9, lines 57-61). Mankovitz do not specifically disclose that the telephone network is a digital mobile network. However, since both telephone network are used primary for the same reason and applications, it would have been obvious to one of the ordinary skill in the art at the time of the invention to adapt the application in one system to the other for the simple reason of having enhanced mobility and portability.

Regarding claims 8-9, they are the corresponding method claims of apparatus claims 11-12. Therefore, claims 8-9 are rejected for the same reason shown above.

5. Claim 15 is rejected under 35 U.S.C. 103(a) as being unpatentable over Mankovitz as applied to claims 8-14 and 16 above, and further in view of Dowling.

As to claim 15, Mankovitz discloses everything claimed as explained above except for wherein the data includes geographic information. Dowling discloses making geographic data information available (see par. 0016).

Therefore, it would have been obvious to one of the ordinary skill in the art at the time of the invention to combine these teachings in order to receive localized information.

Conclusion

6. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any response to this Office Action should be mailed to:

Commissioner of Patent and Trademarks
Washington, D.C. 20231

Or faxed to:

(703) 703-872-9314

For formal communication intended for entry, informal communication or draft communication; in the case of informal or draft communication, please label "PROPOSED" or "DRAFT"

Hand delivered responses should be brought to:

Crystal Park II
2121 Crystal Drive
Arlington, VA
Sixth Floor (Receptionist)

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Marcos L Torres whose telephone number is 703-305-1478. The examiner can normally be reached on 8:00am-5:30pm alt. friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, William G Trost can be reached on 703-305-5318. The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9306.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-305-4700.

Marcos L Torres
Examiner
Art Unit 2683

MIt

WILLIAM TROST
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 2600